

Docket No.: 273012011800
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Philippe Maria C. MARGARON et al.

Application No.: 10/081,010

Filed: February 15, 2002

For: METHODS FOR REDUCING OR
PREVENTING PDT RELATED
INFLAMMATION

Confirmation No.: 1251

Art Unit: 1612

Examiner: Z. Fay

REQUEST TO WITHDRAW FINALITY OF OFFICE ACTION

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants have received a final Office Action dated September 4, 2008, in the above-identified patent application. The Office Action enters new grounds of rejection; however, the new rejections were not necessitated by amendment because Applicants have not amended the claims. Accordingly, Applicants respectfully request the Examiner withdraw the finality of the Office Action (See, MPEP § 706.07(d)) and issue a new Office Action with a reset period for reply.

WITHDRAWAL OF FINALITY OF OFFICE ACTION UNDER MPEP § 706.07(d)

The Office Action dated September 4, 2008 entered new rejections of claims 27, 28, 33 and 37-41 under 35 U.S.C. § 103(a), as allegedly unpatentable over WO 98/34644. (See Office Action, page 2.) These rejections were not asserted in the previous Office Action, mailed November 29, 2007. This is a new ground of rejection at least with respect to claims 27 and 28 that was not necessitated by amendment, because claims 27 and 28 have not been amended.

Accordingly, the finality of the Office Action is premature. (See, MPEP § 706.07(a).) Applicants respectfully request the Examiner withdraw the finality of the Office Action and issue a new, non-final Office Action with a reset period for reply.

CONCLUSION

If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket No. 273012011800. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: December 4, 2008

Respectfully submitted,

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